

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

SYLVESTER M. CHEATHAM,

Plaintiff,

v.

Civil Action No. **3:17CV790**

HAROLD W. CLARKE,

Defendant.

MEMORANDUM OPINION

Plaintiff, a Virginia inmate proceeding *pro se* and *in forma pauperis*, filed this 42 U.S.C. § 1983 action. In order to state a viable claim under 42 U.S.C. § 1983, a plaintiff must allege that a person acting under color of state law deprived him or her of a constitutional right or of a right conferred by a law of the United States. *See Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 658 (4th Cir. 1998) (citing 42 U.S.C. § 1983). Furthermore, “[b]ecause vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must [allege] that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009). “Where a complaint alleges no specific act or conduct on the part of the defendant and the complaint is silent as to the defendant except for his name appearing in the caption, the complaint is properly dismissed, even under the liberal construction to be given *pro se* complaints.” *Potter v. Clark*, 497 F.2d 1206, 1207 (7th Cir. 1974) (citing *U.S. ex rel. Brzozowski v. Randall*, 281 F. Supp. 306, 312 (E.D. Pa. 1968)). Here, Plaintiff names Harold W. Clarke as the sole Defendant. Plaintiff fails to name Clarke in the body of the Complaint and alleges no specific act or conduct by Clarke. Accordingly, the

action will be DISMISSED WITHOUT PREJUDICE because Plaintiff fails to state a claim against Clarke.

It also appears that all of the events leading to this action occurred in the River North Correctional Center, which is located in the United States District Court for the Western District of Virginia. Thus, it is likely that the appropriate venue for this action is the Western District of Virginia, and is not the Eastern District of Virginia.

An appropriate Order will accompany this Memorandum Opinion.

Date: 12/13/17
Richmond, Virginia

/s/
John A. Gibney, Jr.
United States District Judge